

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. EPB-02-156
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ORDER GRANTING MOTION TO FILE SUPPLEMENTAL REPLY BRIEF

(Issued February 18, 2003)

On February 17, 2003, MidAmerican Energy Company (MidAmerican) filed a Motion to Strike, Or, In the Alternative, File Supplemental Reply Brief. In its motion, MidAmerican argues that the legal and public policy issues addressed in the parties' briefs are particularly important in these initial proceedings under new Iowa Code § 476.6(25). MidAmerican argues that the reply brief filed by the Iowa Department of Natural Resources (IDNR) is in the nature of an initial brief and takes significant positions not expressed by other parties that require response for a complete consideration of the policy issues discussed. MidAmerican further argues that IDNR's filing is not permitted by 199 IAC 7.7(12)"a," which provides that reply briefs may only be filed by parties who filed an initial brief. MidAmerican therefore moves the Board to strike IDNR's brief, or in the alternative, to permit parties other than IDNR to file supplemental reply briefs by February 24, 2003, addressing only the issues raised in IDNR's reply brief. The other parties have no objection to such an amended procedural schedule.

Since this is the first proceeding (along with Interstate Power Docket No. EPB-02-150) under the new statute, it is important to allow the parties to fully address legal and public policy issues related to the new statute. Therefore, the motion to strike will be denied. However, fairness requires that MidAmerican and the other parties be allowed the opportunity to respond to IDNR's brief, which addressed questions posed by the undersigned administrative law judge and is more in the nature of an initial brief than a reply brief. No parties object to amendment of the procedural schedule to allow such response. Therefore, the motion to allow the other parties to respond to the issues raised in IDNR's brief should be granted.

IT IS THEREFORE ORDERED:

1. The motion to strike filed by MidAmerican is hereby denied.
2. The motion to file supplemental reply briefs is granted. All parties other than IDNR may file supplemental reply briefs no later than February 24, 2003, addressing only the issues raised in IDNR's reply brief.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 18th day of February, 2003.